

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GERSON & GERSON, INC.,

Plaintiff,

Civil Action No. CV 16-2382

v.

AMERICAN PRINCESS and
JAMES GOLDSTEIN,

Defendants.
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COMPLAINT

Plaintiff, through its attorneys, for its Complaint against the Defendants, alleges as follows:

JURISDICTION AND VENUE

1. This cause of action arises under the Copyright Laws of the United States, 17 U.S.C. §101 *et. seq.*
2. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. §1400(a).

PARTIES

4. Plaintiff Gerson & Gerson, Inc. (hereinafter "Gerson"), is a New York corporation, having an office and place of business at 100 West 33rd Street, New York NY 10001.

5. Upon information and belief, defendant American Princess is a business entity of unknown character, having an office and regular place of business at 141 West 36th Street, 17th Floor, New York NY 10018. Defendant James Goldstein is, upon information and belief, the controlling and managing agent of American Princess, has an office and place of business at the New York address of American Princess, and is the active and conscious controlling force behind the acts of defendants complained of herein. (American Princess and James Goldstein are hereinafter referred to collectively as “Defendants”)

CAUSE OF ACTION - COPYRIGHT INFRINGEMENT

6. Gerson is a designer, manufacturer and distributor of girls’ dresses and other articles of clothing throughout North America and abroad. Gerson has been in business since at least as early as 1970, and has developed an enviable reputation as a source of original, fashionable and high quality girls’ clothing styles.

7. In connection with the design side of its business, in 2013 Gerson created an original fabric pattern for incorporation into its clothing line. The fabric design, entitled “Striped Floral Print,” consists of material wholly original with Gerson, was duly registered with the United States Copyright Office, and received Certificate of Registration VA 1-875-307. A true copy of the registration certificate, along with a reproduction of the fabric design deposit to which the registration applies, is annexed hereto as Exhibit A. The Striped Floral Print pattern has been in continuous public use and display since creation, as it is used in the construction of girls’ dresses manufactured, promoted and sold by Gerson. A photograph of one such dress is annexed hereto as Exhibit B.

8. Upon information and belief, Defendants, without the consent or permission of Gerson, and subsequent to the creation and publication of Gerson's copyrighted Striped Floral Print design, have been and are manufacturing or having manufactured for them, displaying, offering for sale and selling girls' dresses constructed of a fabric that is substantially similar to Gerson's copyrighted Striped Floral Print design. A photograph of one such dress is annexed hereto as Exhibit C. Upon information and belief such dresses have been marketed through at least the website Zulily.com.

9. The acts of Defendants as aforesaid in connection with such dresses constitute infringement of Gerson's copyright rights in the Striped Floral Print Design. Defendants have been placed on notice of Gerson's claim of infringement but, upon information and belief, continue to infringe.

10. The activities of Defendants have been, and if continuing are, in violation of Gerson's copyright rights under 17 U.S.C. Sec. 101 et. seq. in the Striped Floral Print Design, and Defendants' continued violation of Gerson's rights at least subsequent to Gerson's notice of infringement are been in willful violation of such rights.

11. All of the acts of Defendants are and have been without the permission, license or consent of Gerson and will continue to cause irreparable injury to Gerson unless enjoined by the court.

12. Defendants' foregoing activities have damaged Gerson in an amount as yet unknown, but if the foregoing activities continue, Gerson believes damages will exceed at least the sum of \$50,000.

WHEREFORE, Gerson demands:

A. That Defendants, their employees, agents, servants, related companies, and all persons and/or entities in privity with them or any of them, be permanently enjoined from infringing Gerson's Striped Floral Print copyright in any manner whatsoever;

B. That Defendants be required to immediately deliver up for destruction all items bearing the infringing design which are in their possession or under their control, and to deliver up for destruction all material for implementing or manufacturing such infringing works;

C. That Defendants be directed to disclose to Gerson the full identities of each of their customers of the infringing items and of all persons, suppliers, manufacturers and/or artists who assisted them in creating the infringing design and in producing goods bearing the infringing design;

D. That Defendants be required to pay Gerson all damages sustained in consequence of Defendants' infringement, and to account for and award to Gerson all gains, profits and advantages derived by Defendants from the infringements, and that such payment and award be increased as provided by law due to the willful and wanton nature thereof;

E. That Defendants pay to Gerson its costs of this action, including Gerson's attorneys' fees; and

F. That Gerson be granted such other and further relief as the court may deem just.

Dated: March 31, 2016

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By: /s/ Jay A Bondell

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